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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/691,356

10/22/2003

Ralf Benninger

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274 MADISON AVENUE
NEW YORK, NY 10016

EXAMINER

HERNANDEZ, NELSON D

ART UNIT

PAPER NUMBER

2622

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/691,356	Applicant(s) BENNINGER ET AL.	
	Examiner Nelson D. Hernández	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 1-17 and 21-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :3/4/2005, 9/20/2004, 9/7/2004, 10/22/2003.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of **claims 18-20**, which belong to Group II and Species 3 in the reply filed on April 7, 2008, is acknowledged.

Drawings

2. The drawings are objected to because **Figs. 1 and 2** use empty blocks to illustrate the invention, the figures as shown makes difficult to understand the disclosed invention, the name of the elements (blocks) in the figures should have a label with the entire name of the respective element unless the size of the block is too small to have the name labeled. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the

changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Moreton et al., US Patent 5,835,133.**

Regarding claim 18, if the body of a claim fully and intrinsically sets forth all of the limitations of the claimed invention, and the preamble merely states, for example, the purpose or intended use of the invention, rather than any distinct definition of any of the claimed invention's limitations, then the preamble is not considered a limitation and is of no significance to claim construction. The claim preamble must be read in the context of the entire claim. Therefore, the portion “in particular for use in carrying

out a televisit” as written was not considered as a limitation since is stated as an intended use in the preamble. See MPEP § 2111.02.

Moreton et al. discloses a 3D-camera (See fig. 2A), comprising an objective (Fig. 2A: 90) and a camera chip (Fig. 2A: 50), characterized in that the objective (Fig. 2A: 90) includes two recording devices (90a and 90b as shown in fig. 2A) for recording partial images (110 and 210 as shown in fig. 2A) of an original (col. 5, lines 16-47) of which the image is to be produced, from two different recording directions (Note that the partial images are captured from different recording directions as shown with paths 60a and 60b in fig. 2A; col. 5, lines 16-47), wherein a respective partial image is produced for each direction (See partial images 110 and 210 as shown in fig. 2A; col. 5, line 56 – col. 6, line 26), and the objective (Fig. 2A: 90) is such that both partial images (110 and 210 as shown in fig. 2A) are produced on the camera chip (Fig. 2A: 50) in mutually juxtaposed relationship (As shown in fig. 2A, the partial images 110 and 210 are projected to portions 50a and 50b of said camera chip 50 such that said partial images are in mutually juxtaposed relationship on said camera chip; col. 5, line 17 – col. 6, line 35).

Regarding claim 19, Moreton et al. discloses that the objective (Fig. 2A: 90) has more than two recording devices (90a and 90b as shown in fig. 2A) for recording partial images of an original (col. 5, lines 16-47) of which the image is to be produced, from more than two different recording directions (Note that the partial images are captured from different recording directions as shown with paths 60a and 60b in fig. 2A; col. 5, lines 16-47), wherein a respective partial image (See partial images 110 and 210 as shown in fig. 2A; col. 5, line 56 – col. 6, line 26) is produced for each direction,

and the recording devices (90a and 90b as shown in fig. 2A) are so designed that all partial images are produced on the camera chip (Fig. 2A: 50) in mutually juxtaposed relationship (As shown in fig. 2A, the partial images 110 and 210 are projected to portions 50a and 50b of said camera chip 50 such that said partial images are in juxtaposed relationship on said camera chip; col. 5, line 17 – col. 6, line 35).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moreton et al., US Patent 5,835,133 as applied to claim 18 above, in view of Beste, US Patent 3,251,933 and further in view of Hankawa et al., US Patent 5,727,239.**

Regarding claim 20, although Moreton et al. discloses that the recording device (9a and 90b) have a common rear lens (lens 45 as shown in fig. 2A) but does not explicitly disclose that that each recording device has its own front and its own rear lens.

However, Beste discloses a 3D-camera (See figs. 1 and 6), comprising an objective (See lens system as shown in figs. 1 and 6) and a camera (image tube 10 having a light responsive surface 11 as shown in fig. 1; see also fig. 6), characterized

in that the objective (See lens system as shown in figs. 1 and 6) includes two recording devices (as shown in fig. 1, see lens system related to a right image path R composed of front lens 24 and mirror 28; and lens system related to a left image path L composed of front lens 22 and mirror 26. See also in fig. 6a similar structure having two lens system to capture portions of an object from different directions; col. 2, line 28 – col. 3, line 1) for recording partial images (col. 2, line 28 – col. 3, line 1; col. 4, lines 4-21) of an original (object shown in figs. 1 and 6) of which the image is to be produced, from two different recording directions (Note that the two portions of the image is taken using the two different lens systems which capture the image from two different directions; col. 2, line 28 – col. 3, line 1; col. 4, lines 4-21), wherein a respective partial image is produced for each direction, and the objective (See lens system as shown in figs. 1 and 6) is such that both partial images are produced on the camera (image tube 10 having a light responsive surface 11 as shown in fig. 1; see also fig. 6) in mutually juxtaposed relationship (as shown in fig. 6, the two image signal paths are directed to a first and a second portion on the image tube in mutually juxtaposed relationship such that the camera can receive the two image portions simultaneously; col. 4, lines 4-21).

Therefore, taking the combined teaching of Moreton et al. in view of Beste as a whole, it would have been obvious to one of an ordinary skill in the art at the time the invention was made to apply the concept of having independent front lenses for each of the recording device as taught in Beste to modify the teaching of Moreton et al. by using an independent front lens for each of the recording devices. The motivation to do so would have been to allow proper focusing of the portion or area of interest to the internal component on each of the recording devices.

Although the combined teaching of Moreton et al. in view of Beste teaches the use of a common rear lens, the combined teaching of Moreton et al. in view of Beste fails to teach that each recording device has its own rear lens.

However, Hankawa et al. discloses a camera (See fig. 1) arranged to facilitate stereoscopic photography (Col. 1, lines 42-48), comprising an objective (See lens system as shown in fig. 1) and a camera chip (Fig. 1: 6), characterized in that the objective (See lens system as shown in fig. 1) includes two recording devices (as shown in fig. 1, a first recording device composed on mirrors, 1a, 2a and 3a, and rear lenses 4a and 5a; also a second recording device composed on mirrors, 1b, 2b and 3b, and rear lenses 4b and 5b) for recording partial images of an original (See fig. 1) of which the image is to be produced, and the objective (See lens system as shown in fig. 1) is such that both partial images are produced on the camera chip (Fig. 1: 6) in mutually juxtaposed relationship (Note that the two images are projected to the image sensor 6 in mutually juxtaposed relationship such that the camera would be able to capture stereoscopic images using a single sensor; col. 2, lines 24-56).

Therefore, taking the combined teaching of Moreton et al. in view of Beste and further in view of Hankawa et al. as a whole, it would have been obvious to one of an ordinary skill in the art at the time the invention was made to apply the concept of having independent rear lenses for each of the recording device as taught in Hankawa et al. to modify the teaching of Moreton et al. and Beste by using by independent rear lens for each of the recording devices. The motivation to do so would have been to allow proper projection of the partial images to the different camera ship areas thus allowing a proper capture of the areas of interest related to a 3D image.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nelson D. Hernández whose telephone number is (571)272-7311. The examiner can normally be reached on 9:00 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on (571) 272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nelson D. Hernández
Examiner
Art Unit 2622

NDHH
April 30, 2008

/Lin Ye/
Supervisory Patent Examiner, Art Unit 2622